

Amendment No. 2 to SB0868

Watson
Signature of Sponsor

AMEND Senate Bill No. 868*

House Bill No. 1130

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 16, Chapter 11, is amended by adding the following as a new part:

16-11-301.

There is created and established a court of original jurisdiction in this state to be designated and styled the statewide chancery court.

16-11-302.

(a) The statewide chancery court shall be composed of three (3) chancellors, of whom no more than one (1) shall reside in each grand division of the state.

(b) The chancellors of the statewide chancery court shall be appointed and elected in the manner provided by § 17-1-103(b) and title 17, chapter 4, part 3; provided, however, that the judicial district for each chancellor is the state of Tennessee and each chancellor must be elected in a statewide election. Candidates for statewide chancery court must file an original nominating petition, pursuant to § 2-5-103.

(c) The governor shall appoint three (3) persons to serve as chancellors of the statewide chancery court, and each person so appointed shall serve in that capacity until August 31, 2022, or until the person's successor is elected and qualified. At the August 2022 general election, and every eight (8) years thereafter, the qualified voters of the state shall elect three (3) chancellors for a full eight-year term.

(d) The initial terms of the chancellors shall begin on October 1, 2021.

16-11-303.

(a) Notwithstanding any law to the contrary, the statewide chancery court has exclusive original jurisdiction over any civil case in which the complaint meets each of the following criteria:

(1) Challenges on its face the constitutionality of:

(A) A state statute, including a statute that apportions or redistricts state legislative or congressional districts;

(B) An executive order; or

(C) An administrative rule or regulation;

(2) Includes a claim for declaratory judgment or injunctive relief; and

(3) Is brought against the state, a state department or agency, or a state official acting in their official capacity.

(b) Notwithstanding any law to the contrary, the statewide chancery court shall, upon motion by the attorney general and reporter, have exclusive jurisdiction over any civil case in which the complaint meets each of the following criteria:

(1) Challenges the constitutionality of an action taken by a state official or a person acting on behalf of a state official;

(2) Includes a claim for declaratory judgment or injunctive relief; and

(3) Is brought against the state, a state department or agency, or a state official acting in their official capacity.

(c)

(1) Notwithstanding any law to the contrary, any circuit or chancery court shall, upon motion of the attorney general and reporter, certify to the statewide chancery court a question of law in any civil case that meets each of the following criteria:

(A) The complaint or any responsive pleading challenges the constitutionality of:

(i) A state statute, including a statute that apportions or redistricts state legislative or congressional districts;

(ii) An executive order; or

(iii) An administrative rule or regulation issued by a state agency;

(B) The complaint or any responsive pleading includes a claim for declaratory judgment or injunctive relief or the constitutional issue is raised as a defense; and

(C) The complaint does not name as a party the state, a state department or agency, or a state official acting in their official capacity.

(2) In any case in which the attorney general and reporter has moved to certify a question of law pursuant to this subsection (c), no judgment shall issue from the originating court without a ruling on the constitutional question of law from the statewide chancery court.

(d)

(1) During the period in which the statewide chancery court addresses a certified question pursuant to subsection (c), jurisdiction over the case otherwise remains in the originating circuit or chancery court.

(2) The originating circuit or chancery court may not rule upon the certified question of law after the attorney general and reporter has moved to certify the question.

(3) If the originating circuit or chancery court has already ruled upon the certified question of law at the time the attorney general and reporter moves to certify the question, the originating court's ruling is vacated and the statewide chancery court shall consider the question de novo.

(e) This chapter does not create a cause of action independent of existing Tennessee or federal law and does not waive the defense of sovereign immunity where that defense applies.

(f) An action described in subsection (a) that is filed in a court other than the statewide chancery court must be dismissed without prejudice. Notwithstanding any law to the contrary, the applicable statute of limitation for such an action must be tolled until thirty (30) days after the date of such dismissal to allow plaintiffs to timely file such action in the statewide chancery court.

(g) This section does not affect the procedures and remedies provided in title 67, chapter 1, part 18. However, the statewide chancery court shall be the appropriate chancery court for any suit filed pursuant to title 67, chapter 1, part 18, that meets the requirements of subsection (a).

(h) As used in this section:

(1) "Complaint" means a complaint filed in a civil case or a portion thereof, or an amended or subsequent complaint or a portion thereof; and

(2) "Responsive pleading" means a responsive pleading filed by a party in a civil case or a portion thereof.

16-11-304.

(a) The statewide chancery court has the same powers and privileges that any chancery court has pursuant to § 16-11-101, except that the court's jurisdiction is limited as provided in § 16-11-303(a), (b), and (c).

(b) Except as provided in § 16-11-305(c), the court of appeals shall have jurisdiction of appeals from the decisions of the statewide chancery court. Notice of such appeal must be filed with the court of appeals.

(c) The statewide chancery court shall sit in the supreme court buildings in Knoxville, Nashville, and Jackson, unless a location is otherwise designated by the supreme court, and shall hear, try, and dispose of the action as a three-judge panel.

(d) In the event of a disagreement among the chancellors, the majority prevails.

(e) If a chancellor is recused from a case before the court or is otherwise temporarily unable to serve, then the supreme court shall appoint as a replacement another elected trial court judge with civil jurisdiction who is from the same grand division as the chancellor being replaced and who shall serve by interchange, as provided in Rules 10B and 11 of the Tennessee Supreme Court Rules.

(f) At the first meeting of the court after the initial appointments and subsequent regular judicial elections, the members of the court shall choose the presiding judge of the statewide chancery court.

(g) The clerk and master of the statewide chancery court must be appointed by the chancellors and shall serve as provided in title 18, chapter 5.

(h) The rules promulgated by the supreme court shall govern the practice and procedure in the statewide chancery court, including certification of questions to the statewide chancery court and the transfer of cases to and from the statewide chancery court.

16-11-305.

(a) Pursuant to Article II, Sections 4, 5, and 6 of the Constitution of Tennessee, which vest the power of apportionment with the general assembly, the statewide chancery court shall not impose a substitute plan for a plan enacted by the general assembly apportioning or redistricting state legislative or congressional districts under this part unless the court first gives the general assembly a period of time to remedy any defects identified by the court in the court's findings of fact and conclusions of law. The period of time given must not be less than fifteen (15) calendar days from the issuance of the court's findings of fact and conclusions of law, and in setting the period of time, the court shall consider whether the general assembly is currently in session or out of session.

(b) If the general assembly does not enact a new plan within the period of time set by the court pursuant to subsection (a), then the court may impose an interim districting plan for use only in the next election cycle, provided the interim districting plan differs from the districting plan enacted by the general assembly only to the extent necessary to remedy any defects identified by the court.

(c) A party in an action challenging a statute that apportions or redistricts state legislative or congressional districts that is dissatisfied with the final judgment of the statewide chancery court may appeal to the supreme court, as a matter of right, within thirty (30) days from the entry of the judgment of the statewide chancery court. The record on appeal must conform to the requirements of Rule 24 of the Tennessee Rules of Appellate Procedure.

SECTION 2. Tennessee Code Annotated, Section 4-5-223(a)(1), is amended by deleting the language "chancery court of Davidson County" and substituting "statewide chancery court".

SECTION 3. Tennessee Code Annotated, Section 4-5-225(a), is amended by deleting the language "chancery court of Davidson County" and substituting "statewide chancery court".

SECTION 4. Tennessee Code Annotated, Section 17-1-103(b), is amended by redesignating the subsection as subdivision (b)(1) and adding the following subdivision (b)(2):

(2) Each of the three (3) elections for chancellor of the statewide chancery court must be won by the person from the appropriate grand division that receives the highest number of votes.

SECTION 5. Tennessee Code Annotated, Section 2-13-202, is amended by designating the existing language as subsection (a) and adding the following as subsection (b):

(b) Statewide political parties shall nominate their candidates for the statewide chancery court by vote of the members of the party in a May primary election, or in the presidential preference primary, whichever is applicable.

SECTION 6. Any case for which the statewide chancery court has jurisdiction that is pending on October 1, 2021, must be transferred to the statewide chancery court, upon motion by the attorney general and reporter.

SECTION 7. For the purpose of appointing the initial chancellors of the statewide chancery court, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect October 1, 2021, the public welfare requiring it.